INTRODUCTION TO THE ACQUISITION PROCESS

The Livingston's House Dilemma

Mr. and Mrs. Livingston decide to build a house on a lot they own near a lake. They want to use it as a vacation house for the next few years, and then make it their permanent retirement home.

They decide to start their project immediately to take advantage of current low interest rates and to have the house ready for use next spring — about 9 months from now.

Having made the decision to proceed, they realize that they must make decisions about the house itself:

- Should they design it themselves?
- Should they just give a good builder a sketch and ask the builder to "fill it in" while doing the actual building?
- Would it be better to hire an architect to create a complete design and then get a good builder to build it according to the design?

Mr. and Mrs. Livingston decide to use an architect. They engage Ms. Allen, an architect of good reputation whose office is near the building site. Ms. Allen develops a set of plans and specifications that they like.

They are not sure who should build the house. After discussions with Ms. Allen, they decide to invite builders from the area to submit bids. Four builders submit bids. Based on their discussion with the architect, the Livingstons believe the house will cost about \$130,000. The bids they receive are:

Bidder A	\$160,000
Bidder B	134,000
Bidder C	116,000
Bidder D	105,000

The Livingstons are excited about the bid from Bidder D. But Bidder D does not intend to start right away, and probably would not have the house ready until next fall—if then. Also, Bidder D's timing might have a serious impact on financing.

Next they consider Bidder C. They learn that until recently he was a carpenter in the area. Word of mouth has it that he never was able to hold a job for more than a few months because of his lack of skill and poor work habits. The Livingstons decide that it would be too risky to give him the job.

Then they consider Bidder B. Mr. Butler has a good reputation, does good work, finishes jobs on schedule, and has solid recommendations from several families for whom he had built similar homes.

After a meeting with Ms. Allen and Mr. Butler, the Livingstons sign a contract with Mr. Butler. Because of the distance from their present home to the building site, they realize they will not be able to see that the work is being done properly. They engage Ms. Allen to make periodic inspections of the work and to certify progress so that Mr. Butler can get progress payments from the bank. It is clearly understood, however, that any change or any faulty work has to be reported to the Livingstons so that they can decide what action to take.

Learning Objectives

- 5-1 State the three phases of the acquisition process and related business issues.
- 5-2 State the four main functions of the presolicitation phase.
- 5-3 State the three main functions of the solicitation-award phase.
- 5-4 State the seven main functions of the post-award administration phase.
- 5-5 Describe the relationship between acquisition goals and functions.

Exhibit 5-1. Learning Objectives.

5.1 ACQUISITION PHASES AND RELATED BUSINESS ISSUES

Perhaps you have had an experience similar to the Livingstons'. You may have faced the same issues and, given those issues, may have had to make the same basic business decisions:

5.1.1 The Presolicitation Phase

The purpose of this phase is to (1) decide whether to contract for the requirement and, if that is the decision, (2) lay the groundwork for soliciting and awarding the contract. Related issues:

- 1. What do we need, and is contracting the best alternative for satisfying that need?
- 2. How do we initiate an acquisition, in terms of such things as approvals, funding, and information on the market?
- 3. How can we best specify exactly what we want?
- 4. Who should we consider for the work, what factors should apply in making our selection, and what method (i.e. sealed bidding or negotiations) should be used to award the contract?

5.1.2 The Solicitation And Award Phase

The purpose of this phase is to (1) solicit offers, (2) evaluate offers, and award the contract. Related issues:

- 1. How do we solicit offers from the contractors in whom we are interested and under what terms and conditions?
- 2. How do we evaluate the submitted offers and identify that offer which represents the best value?
- 3. How do we award the contract and handle any complaints from offerors who were not selected?

5.1.3 The Post-Award Phase

The purpose of this phase is to administer the awarded contract. Related issues:

- 1. What is required to initiate work under the contract?
- 2. How can we be sure the work is done according to the contract, and what steps can we take if things go wrong?
- 3. When and how do we pay the contractor?
- 4. How do we close the contract out?
- 5. What happens if we decide to change the design of the item?
- 6. What if we need to terminate the contract, either because we no longer want the deliverable or because the contractor is not performing as required by the contract?
- 7. What if the contractor alleges that we have not lived up to our end of the contract?

Each of these issues represents an acquisition function, whether the acquiring is being done by the Livingstons, corporations, State or local Governments, or the Federal Government. For each of these issues, you will find a corresponding function in Exhibit 5-2 under the matching phase and number.

5.2 FUNCTIONS OF THE FEDERAL ACQUISITION PROCESS

FUNCTIONS OF THE ACQUISITION PROCESS

Functions of the Presolicitation Phase

- 1. Determination of Need.
- 2. Initiating the Procurement.
- 3. Analysis of Requirement.
- 4. Sourcing.

Functions of the Solicitation-Award Phase

- 1. Solicitation.
- 2. Evaluation (Sealed Bid and Negotiation).
- Award.

Functions of the Post-Award Administration Phase

- 1. Start-up.
- 2. Quality Assurance.
- 3. Payment and Accounting.
- 4. Closeout.
- 5. Contract Modification.
- 6. Termination.
- 7. Claims.

Exhibit 5-2. Functions of the Acquisition Process.

What is Unique About the Federal Acquisition Process?

While it involves the same basic phases and functions as any acquisition process, the Federal acquisition process differs greatly in the details of how those functions are performed. In the first four chapters, you learned about:

- The goals of the Federal acquisition process (see Exhibit 5-3) and the environmental constraints on goal accomplishment.
- The role of the Congress, the President, and the Judiciary in acquiring supplies and services for the Government.
- The basic statutes and regulations that govern the acquisition process.
- The key players and participants in the Federal acquisition process and their respective roles and responsibilities.

These all weigh heavily in determining the steps in performing the functions of Exhibit 5-2 and how those steps are performed. The following chapters present each function and its related duties. You will learn that the Federal acquisition process, though prescribed and controlled to a large degree, still requires the exercise of judgement on the part of the players, particularly the CO. You will also learn how the process can, if properly and competently executed, help satisfy the goals in Exhibit 5-3.

GOALS OF THE FEDERAL ACQUISITION PROCESS

- 1. Satisfy the customer by obtaining the optimum market response to requirements for supplies and services, in terms:
 - Quality.
 - Timeliness.
 - Cost.

While:

- Minimizing business and technical risks.
- Accomplishing socioeconomic objectives.
- Maximizing competition.
- Maintaining integrity.
- 2. Assure that purchased supplies and services are:
 - Delivered or performed when and where specified in the contract.
 - Acceptable, in terms of conforming to the contract's specifications or statement of work.
 - Furnished in compliance with other terms and conditions of the contract.

Exhibit 5-3. Goals of the Federal Acquisition Process.

Relationship Between Goals and Functions

In the final analysis, your performance of acquisition functions and related duties should be judged not by:

- How faithfully you have observed the letter of the applicable laws and regulations (although your acquisitions must comply with those laws and regulations).
- The extent of competition for the requirement (although maximizing competition is a subgoal of the process).
- Whether you have obtained a lower price than in prior acquisitions for the supply or service (although price is an important factor .)

Rather, your performance at every step of the way in the acquisition process should, in the final analysis, be judged by its contribution to accomplishing the overall goals in Exhibit 5-3.

For example, you may perform every step of the procurement process in apparent compliance with the letter of the applicable laws and regulations. You may have succeeded in obtaining independently prepared offers from three competitors. Yet the prices might be unacceptably high because you:

- Entered the market at the wrong time (e.g., buying produce out of season).
- Used a specification that unnecessarily and unwittingly limited competition to a market segment characterized by premium prices.
- Ordered an uneconomic quantity.
- Imposed an unnecessarily tight delivery schedule relative to delivery terms and conditions that are prevalent in that market.
- Used the wrong type of contract (e.g., a firm fixed price contract for a market that is expecting a high rate of inflation during the period of contract performance).
- Imposed warranty requirements that are far in excess of what is customary for that market.

The bottom line: No function of the acquisition process or any related duty should be viewed as an end in itself. Rather, as you read about each function and duty in the following chapters, always be mindful of the overall goals in Exhibit 5-3.

Mapping the Federal Acquisition Process

Exhibit 5-4 maps the phases and functions of the Federal acquisition process, in terms of the specific duties that are related to each function. In chapters 6 through 9, you will find a block of text for every duty in the exhibit.

THE ACQUISITION PROCESS

	PRESOLICITAT	ATION PHASE			SOLICITATION	SOLICITATION-AWARD PHASE	
DETERMINATION OF NEED	INITIATING THE PROCUREMENT	ANALYSIS OF REQUIREMENT	SOURCING	SOLICITATION	EVAL) Sealed Bidding	EVALUATION ding Negotiation	AWARD
Determination of Need Processing the PR Forecasting Require- Purchase Requests ments Acquisition Planning Funding Market Research Market Research	Processing the PR Purchase Requests Funding Market Research Market Research	Analysis of Require- ments Specifications Statements of Work Services	Extent Of Competition Required Sources Set Asides 8(a) Procurements Competition Requirements Competition Requirements Unsolicited Proposals Lease Vs. Purchase Price Related Factors Technical Evaluation Factors Procurement Method Method Of Procurement Procurement Planning Procurement Planning	Terms and Conditions Bid Evaluation Contract Types Processing Bids Letter Contracts Time Extension Contract Financing Bids Use of Government Late Offers Property And Supply Bid Prices Sources Responsiveness Bonds (need for bonds) Responsiveness Proliciting Offers Responsiveness Predicting Offers Responsiveness Prebid/Preproposed Procurements Prebid/Preproposed Premayer Inquiries Prebid/Preproposed Premeding Solicitations Cancelling Solicitations Cancelling Solicitations Prepropression Pre	Bid Evaluation Processing Bids Time Extensions For Bids Late Offers Bid Prices Responsiveness	Proposal Evaluation Processing Proposals Technical Evaluation Price Objectives Cost and Pricing Data Cost Analysis Evaluating Other Terms and Conditions Competitive Range Discussions Factfinding Negotiation Strategy Conducting Negotiations	Selection for Award Mistakes In Offers Responsibility Subcontracting Goals Preparing Awards Award Debriefing Protests Protests Fraud Fraud Fraud

Exhibit 5-4. Federal Acquisition Process Chart.

SPECIALITIES Simplified Purchasing Real Property Leasing ADP/Telecommunica Systems Procurement SPECIALIZED AREAS Construction A&ECLAIMS Claims Claims Termination A. Determine whether to terminate for conven-C. Terminating for defaul B. Terminating for con-TERMINATION Bonds (adminstering ience or default Termination venience Contract Modifications A. Contract Modifications B. Exercising Options Modifications/Options CONTRACT MODIFICATION CLOSEOUT Closeout Closeout THE ACOUISITION PROCESS POST-AWARD ADMINISTRATION PHASE PAYMENT AND ACCOUNTING Assignment Of Claims Collecting Contractor Price and Fee Adjust Estimating Systems Accounting and Cost Limitation Of Costs Accounting and Defective Pricing Progress Payments Unallowable Costs Defective Pricing Cost Accounting Standards Monitoring and Prob- | Payment lem Solving | Limitation Invoices tice C. Liquidated damages D. Rejection of work E. Express warranty or Property Administration Monitoring, Inspection Reporting Performance Problems A. Selection B. Cure or show cause QUALITY ASSURANCE Fraud And Exclusion Implied warranty Latent defects and Acceptance Stop Work Remedies Property Contract Administration Post-Award Orientations Consent To Subcontrac tracts/Agreements) Orders Against Con-START-UP Subcontracting Ordering Planning

Exhibit 5-4. Federal Acquisition Process Chart (continued)

However, please note that not every function or duty applies to every acquisition. For example, many contracts are not modified, and few are terminated. Also be advised that the sequencing of functions or duties may vary from contract to contract. For example, some solicitations may be amended prior to the opening of proposals, as suggested by Exhibit 5-4, but others might not be amended until after the Government has begun to evaluate proposals.

Alternative Acquisition Procedures

FAR 15.613

Also note that several agencies, most notably the National Aeronautics and Space Administration, use alternative source selection procedures for large acquisitions. Such source selection procedures depart markedly from the process described in the next several chapters, in terms of (1) steps in the process, (2) how those steps are performed, and (3) in the roles and responsibilities of the CO and other officials for the acquisition.

Each of the following four chapters presents a different section of Exhibit 5-4 and fully details the duties in that section.